



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 31, 1993

Ms. Alesia L. Sanchez
Legal Assistant
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR93-005

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 22781.

The Texas Department of Insurance (the "department") received an open records request for:

all information you have concerning Western Acceptance Corporation, especially, the basis for your cease and desist order and the complaints you have. I would also appreciate a copy [of] your investigative report.

You have submitted to this office as responsive to this request a representative sample of records, all of which you contend are made confidential by article 24.06(b) of the Insurance Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.²

¹The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²The requestor also seeks the department's records reflecting complaints against "American Auto Insurance" and a specified insurance agent. Because you have not submitted to this office any records coming within the ambit of these requests, this office assumes that the department has released these records to the requestor. If it has not, these documents will be presumed to be public and must be released unless they contain information that is confidential under law. *See* Open Records Decision No. 197 (1978) (failure to submit copies of requested information results in presumption that the information is public).


Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Chapter 24 of the Insurance Code concerns the department's regulation of insurance premium finance companies licensed to do business in Texas. Article 24.05 establishes the grounds and procedures for the revocation of licenses, while article 24.06(a) authorizes the department to conduct examinations or investigations of licensees to determine whether grounds exist for the revocation of a license. Article 24.06(b) provides in pertinent part:

All reports of examinations or investigations and all correspondence and memoranda concerning or arising out of those examinations or investigations, including any duly authenticated copy or copies of those reports in the possession of any licensee or the [department], are confidential communications, are not subject to subpoena, and may not be made public, except in connection with a hearing under Article 24.05 of this chapter and any appearance in connection with such a hearing.

We have examined the records at issue, and it is apparent that these records all relate to an investigation of an insurance premium finance company as authorized under article 24.06(a). Consequently, the department must withhold the requested documents pursuant to section 552.101 of the Government Code in conjunction with article 24.06(b) of the Insurance Code.³

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,


Rebecca L. Payne
Section Chief
Open Government Section

RLP/RWP/rho

³Because we resolve your request under section 552.101, we need not address at this time the other exceptions you have raised under the Open Records Act.

Ref.: ID# 22781
ID# 22865

Enclosures: Submitted documents

cc: Mr. Jeff Buck
Law Office of Spears, Svetlik & Buck, L.L.P.
One West Loop South
Suite 219
Houston, Texas 77027
(w/o enclosures)